IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 27TH FEBRUARY 2007 / 8TH PHALGUNA 1928

Crl.Rev.Pet.No. 2395 of 2004()

CRA.389/2002 of II ADDL. SESSIONS COURT, PALAKKAD
ST.2618/1999 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, PALAKKAD
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REVN. PETITIONER/APPELLANT/ACCUSED:

N.L.PARVATHY, W/O. P.V.RAMESH,
UPPDER DIVISION CLERK, CENTRAL SILK BOARD,
P-2, BASIC SEED FARM, PALLATHERI POST, PALAKKAD.

BY ADV. SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P
SRI.M.V.BIPIN

RESPONDENTS/COMPLAINANT & STATE:
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1. SRINIVASALUM, S/O. JAYARAMCHETTY,
"SRI.RAMAPRASADAM", S-401, VEE VEE ROAD,
SAHYADRI COLONY, CHANDRANAGAR, PALAKKAD.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. AMJAD ALI
ADV. SRI.T.M.SREEDHARAN
SRI.DEEPAK JOY.K.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 27/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON C.M.A.NO.11162 OF 2004 IN CRL.R.P.2395 OF 2004

DISMISSED

27/02/2007 Sd/-K.R.UDAYABHANU,JUDGE

TRUE COPY

P.A.TO JUDGE

K.R.UDAYABHANU,J

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Crl.R.P.No.2395 of 2004

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Dated this the 27th day of February, 2007

ORDER

The revision petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for one month and to pay a compensation of Rs.1,50,000/- to the complainant under Section 357(3) Cr.P.C and in default, to undergo simple imprisonment for one month. The prosecution case is that the accused along with her husband and father-in-law came to the house of the complainant and borrowed a sum of Rs.75,000/- on 01.03.1999 and a sum of Rs.1,20,000/- on 04.05.1999 agreeing to repay the amounts with 24% interest. When the amount was demanded Rs.45,000/- was paid and also issued a cheque for Rs.1,50,000/- on 21.07.1999. When the complainant presented the cheque on 22.07.1999 for collection through Nedungadi Bank, Chandra Nagar Branch, the same was dishonoured on 23.07.1999, for want of sufficient funds in the account of the accused. The evidence adduced in the matter consisted of the testimony of PW1 the complainant, PW2 the Bank Manager and Exts.P1 to P6 marked on behalf of the complainant and that DW1,

Deputy Director of the Central Silk Board, Palakkad in which the accused is working. On a consideration of the evidence adduced, I find that there is no ground to interfere as the complainant has established the execution of the cheque and the fact that it was for discharge of the liability. The defence evidence of DW1 is to the effect that the official superior was present in the office as per attendance records. It was admitted by DW1 that the same would not disable the accused to come out of the office. Hence, the statutory presumptions stand not rebutted by evidence adduced by the accused. Hence, the conviction is confirmed.

Considering the plea of the counsel for the revision petitioner, the sentence is modified to imprisonment till the rising of the court. The latter part of the sentence is retained. The revision petitioner is granted four months time from today onwards to make the payment. She shall appear before the Judicial First Class Magistrate Court-I, Palakkad on 28.06.2007 to receive sentence.

The Crl.R.P is disposed of accordingly.

K.R.UDAYABHANU,JUDGE

dvs